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City Council 8

CITY COUNCIL AGENDA FACT SHEET

	Finance	_			April 6, 2010
	Department	_			Requested Date
1.	Request:			haf	
	Council Ap	proval	х	Information Only/ Presentation	
	Other (spe	cify)		Hearing	
2.	Requested Action:				
	Charge Olga Elisa Alb	anez, Wate	r Account	#ALB0023 only for	actual water consumed, plus
	sewer charges in the	total amou	nt of \$1,97	1.40 and provide h	er a long-term payment
	arrangement plan, to	allow an ex	xtended pe	eriod of time to sat	isfy the bill.
0	P1 1.				
3.	Fiscal Impact: Revenue:	Increase		Source:	
	11010111001				Ć1 207 F0
		Decrease	X	Amount:	\$1,387.58
	Cost:	Increase		Source:	
		Decrease		Amount:	
	Doe	es Not Appl	у		
4.	Reviewed By:				
4.	neviewed by.				
	Finance Dept. on	3/29/201	0	Ву	:
	Comments:	At a minin	num bill of	3,000 Cu. Ft./Mo.	For 48 months = \$3,358.98 vs.
	Av. Consumption of 1	564 (75100	/ 48 mos.)) = \$1971.40 (about	t 25 months); Diff. \$1,387.58
	City Attorney on			Ву	;
	Comments:			_	
N	ote: Back up must be submitted	along with this	form. Deadli	ne ls 5:00 p.m., 2 Fridays L	pefore the scheduled meeting date.
LERK US	EONLY:				
	CITY COUNCIL DATE:				
	Action			Filing	_
				Filing	
	Consent			Presentation	·
	Hearing			Other(specify)	
Review	ed by: City Clerk			City Manager	
	Date			Date	

Form FIN038 (Revised 02/2008)

CITY COUNCIL AGENDA REPORT

SUBJECT: Olga Elisa Albanez Water Account

AGENDA DATE: April 6, 2010

PREPARED BY: Judith Hashem, Finance Director

APPROVED FOR AGENDA BY: Victor M. Carrillo, City Manager

RECOMMENDATION: City Council is requested to take the following action:

1. Charge Olga Elisa Albanez, Water Account #ALB0023 only for actual water consumed, plus sewer charges in the amount of \$1,971.40 and provide her a long-term payment arrangement plan to allow an extended period of time to satisfy the bill.

FISCAL IMPACT:

BACKGROUND: The City received a letter dated March 22, 2010 from Heriberto Albanez addressed to the City Council in dispute of a water account on behalf of his daughter Olga Elisa Albanez.

The City's process for establishing a water account with the City of Calexico is as follows: The owner of a parcel, whether it is house, condo, or apartment dictates who is going to be responsible for the water, either owner or tenant. If the owner determines they will be responsible for the account, we asked for a grant deed verifying ownership and do not collect a deposit. However, if we are told the tenant is responsible, then we require a rental agreement which authorizes the renter to establish the water in their name and we collect a deposit towards payment of the last month's bill.

I am told that sometime in 2005 or 2006 it was determined that certain inactive meter numbers would be taken off the reading routes and placed on a newly created "99" list. Having these inactive accounts on the regular routes significantly extended the reading time and the workload, because the accounts reappeared each month on the reading route and rereads list. At that time the Finance Department and Water Supervisor felt it was not efficient to reread those meters every month, when the result was the same every month. These accounts consisted of vacant lots and uninhabitable houses.

In November 2009 I asked staff to review those accounts in order for the meter readers to verify there was no consumption for any meter appearing in route "99". During the audit of the "99" accounts, staff found approximately 3 dwelling units included on the "99" list, that should have been on a regular route, because they were not vacant lots or uninhabitable dwellings. We then placed the accounts back into their appropriate route. The meters then appeared during the next reading cycle on the reread list, because the

system recognized there was no account to bill and automatically placed the meter on the reread list. During the routine process of checking the rereads, staff discovered there was a reading for the meter at the condo located at 1120 Rosas Street, #C4. There was no account for this meter.

On November 18, 2009 we followed our normal procedure and prepared a work order to turn off 1120 Rosas Street, #C4 (copy attached). At that time Ms. Albanez called to find out why she had no water and staff indicated to her there was no account for that address and advised here of the requirements to establish an account.

Ms. Albanez subsequently brought in her rental contract and stated she would bring the required deposit at a later date. Ms. Albanez signed the work order to turn on the water in her name on November 18, 2009.

The City Manager asked that I handle the account and on March 10, 2010, I wrote a letter to Olga Albanez, based on the facts we had and provided her the total amount of water that would be due within the statute of limitations and provided her a payment plan option. Ms. Albanez called and set an appointment to meet with me regarding this matter.

I met with Olga Albanez and her father on Monday morning, March 15, 2010. The City was under the impression Olga moved into this condo effective June 1, 2005 at the time she signed the lease with property manager, Mark Esquer. However, on Monday, she indicated she was already living in the condo prior to June 2005. She stated that Linda Barrientos had originally been the property manager for the owner. We contacted Linda Real Estate and Linda informed us that Ms. Albanez began renting from her at this location on or about the end of the year 2004 through May 2005. Ms. Albanez indicated that the water was already on when she originally looked at the condo to lease and subsequently moved in.

According to our work order records, the previous renter moved out in September 2004, giving us a service termination date at which time we took a final reading. Now how the water got turned back on is unknown, because there was no work order to turn it on, so it could have been turned on by the property manager, owner, lessee or someone else. We have no work order to turn the water on after the prior tenant moved out. Ms. Albanez stated that when she moved in, the water was already on so she did not worry about it; however, her lease clearly states that if utilities are metered, the tenant shall be responsible for payment.

The meter could not be read with the interrogator, because it would not have been in sequence on the regular route, but the problem was not discovered by meter reading or customer service staff until November 2009, when the audit of route "99" was initiated.

In the Finance Department I consider it a high priority to treat our customers fairly and I believe we stated the facts to Ms. Albanez. Ms. Albanez came in to discuss the issue of the water account at 1120 Rosas Street, #C4 and delivered a copy of her lease agreement

to us. This was the lease agreement she signed with Mark Esquer, who assumed the management of the property after Linda Barrientos. Olga indicated that Mark called her and said he was managing the condo and she would have to sign a lease although she was already living there. She indicated that she is under a program and the program works like any other apartment, the renter pays the utilities, not the program. She further stated that she did not establish a water account because she already had water when she moved in. Ms. Barrientos stated she did know if the water was on when Olga Albanez moved in, but the tenant was responsible for all utilities, including the water at the condo.

The City ordinance prohibits a person from turning on and off the City's water meter, however, the City has considerable problems with meters being turned on by other than City personnel, which means the meter readers must either lock the meter or pull the entire meter out. Unfortunately some of the old meters in town do not have the rings in which to attach a lock and sometimes the locks are cut by private parties to access the meter. The Water Department hesitates to uninstall the meters because of the State regulations against any dirt/debris getting into the water and keeping the meters sanitary is a problem, once they have been pulled out.

Olga indicated to me that she had problems with the condo at #C4 that were not resolved, so she moved to a condo in the same complex at 1160 Rosas Street, #145. In November 2009 Ms. Albanez signed a work order to turn the water on in her name, after the City had terminated service. Now she should have been aware that the water would need to be disconnected again when she moved out. A turn off order was not given to the City for 1120 Rosas Street, #C4 in January 2010; however, per Mark Esquer her 30-day notice to vacate the property was given on December 5, 2009.

On February 3, 2010 approximately a month after she was already living at 1160 Rosas Street, #145, she came in to establish the water account. She paid a deposit of \$104.30 and \$55.70 toward the pending bill at #C4, for which a balance was due in the amount of \$127.95. At the same time we closed the account at 1120 Rosas Street, #C4 and prepared a work order for a final reading on that location.

Ms. Albanez was billed for water consumption from November 2009, when the water was established in her name until she turned the water off February 3, 2010. The retro charge was not placed on her account pending a calculation of the total amount due. Ms. Albanez knows that after coming in to turn the water on in November at the old location, that she must turn the water off when she moved out and establish water service for the new location.

I had a conversation with Mark Esquer last Thursday and he stated that he reviews the lease agreements with all tenants and 100% of the time the tenant is responsible for paying the water as far as the properties he manages are concerned.

The computation prepared by staff for the #C4 location was based on the number of months we could legally charge for, which according to the statute of limitations is the current year, plus 3 prior years, although Ms. Albanez, was a tenant at that condo prior to

4 years ago. Calculating the 48 months at the minimum of 3000 cubic feet per month the total amount owed would be \$3,358.98 for water and sewer.

The tenant is attempting to make the City responsible for turning off her water and billing her, with no knowledge of her tenancy in the condo. As I previously stated, we had no way of knowing when or who turned the water on after the City turned the service off for the prior tenant. As per her own statement and her father's letter, she has always rented, which means she probably signed more than one rental agreement over the years. A rental agreement typically states who was responsible for the utilities. In fact, Ms. Albanez prior to the #C4 account rented a location in the City of Calexico and the account was in her name. Her account was not in good standing with the City.

I believe in all fairness both to the City and to the lessee, that if we charge for only the actual water consumed, which was 75100 units and we divide that by the 3000 cubic feet, the result is 25 rather than 48 months or approximately one-half of the normal maximum units included in the minimum water bill. Ms. Albanez on average was consuming 1564 units (75100 / 48 months). Therefore, the total cost for the water actually consumed, plus sewer charges is \$1,971.40 (copy attached).

We have many people in these economic times that have hardships and we make every effort to provide extended payment plans. The issue is really between Ms. Albanez and the property managers as to the responsibility for the water. The City cannot be held liable for her not reading her lease agreement, which is her legal responsibility.

The City would have turned the water off, if the a reading had indicated there was water consumption on this meter, but again the meter had been taken off the normal route and placed on a route "99", as a non-registering meter. It is illegal to tamper with the City water meter. According to our records the meter was off. The meter readers would have to visually take special notice if a unit was vacant but the meter was still active, or the reverse, someone was actually living at a location and the meter was not registering inactive on the route. The meter readers do not have time when walking the routes to take note of every instance of exceptions.

My recommendation would be to provide the benefit of not charging her the 3000 cubic feet minimum consumption for 48 months, but rather the actual amount of water consumed and to grant -Ms. Albanez a long-term payment arrangement plan. The payment plan amount would be paid in addition to her regular monthly water bill amount.

Attachment: Mr. Albanez Letter
Work Orders

Schedules on Retro Charges

March 22, 2010

City of Calexico 608 Heber Avenue Calexico, CA. 92231

City Council members. Messrs. Ouzan, Moreno, Romero, Castro and Hermosillo

Several weeks ago, my daughter, Olga Elisa Albañez, went to City Hall to make preparations to obtain water service at a new rental unit she was preparing to move into.

Her scheduled move in date was January 2nd, 2010, but her water contract was to be effective February 3rd, 2010.

In late 2004, Olga Elisa rented a condo, located at 1120 Rosas Street, # C-4. When she went to that site, accompanied by Mr. Alex Barrientos of Linda Real Estate, during the "Walk Through" Olga noted that all the lamps, the refrigerator, wall outlets, plugs etc., were operational. She also noted there was water, and the condo was clean and suitable for occupancy. This is a requirement imposed by the City of Calexico Housing Authority. She then signed the housing contract and subsequently moved in.

My daughter has always rented living quarters. She has never been mandated to pay for water service. Since there was water service in her new condo, she 'assumed" that was included in the rental contract, as had been her previous experiences.

In November of 2009, she noticed she had no water service in her unit. She called city hall and was informed that the water had been turned off. Olga asked why? She was told that in order for her water service to be resumed, she would have to come in and reestablish service. Olga responded that she had never signed a water contract. She had never been billed, and she had no idea of the proceedings going on. She then called Mr. Victor Carrillo, City Manager. She explained the above to him. Olga called me and asked that I speak with Mr. Carrillo. He explained to me that the water service would be activated, and for my daughter to come in and sign a water contract. When I explained the above to him, he stated the city would forgo the past "bill", and make the contract effective November 18th, 2009. He cited an "Account 99" or something to that effect. The fact that my daughter had never signed a contract for water service, coupled with the fact that she had never been billed, led him to that conclusion. Mr. Carrillo informed my daughter, "We'll take care of this and we'll start on the right foot", referring to a clean slate effective Nov. 18, 2009.

On March 10, 2010, Mrs. Judith A. Hashem writes my daughter, on city stationary, that she owes \$3,358.98 for her past water usage originating at 1120 Rosas, C-4. I accompanied Olga to go and speak with Mrs. Hashem. Bottom line, she informed us; "You had a conversation with the City Manager regarding this account and in all fairness to the City Manager, your point of contact should have been my office to resolve this matter. The City Manager is new and was not aware of the rental contract that indicates you lived at that address "

She also stated that a new resolution, Resolution 10 - 17, effective March 2^{nd} , 2010, negated what Mr. Carrillo had informed us would occur.

of Calexico Housing Authority had my daughter's signature on it where it stipulated she was responsible for the water account. (NOTE – My daughter, during her period of high emotional contentment, signed the form presented to her by the housing authority without really knowing all of its contents. She did not, however, sign a water service contract with the city. According to city records, the former tenant of that particular unit was a Mr. Jesus Guerrero, and he disconnected his water service in September of 2004. It is still a mystery why that service was not turned off.)

My response: Since she had never had a water account in her name, she had correctly assumed that the water service was included in the rental contract. That, coupled with the fact that she had never received a water bill, further reinforced that opinion. The next question that comes to mind is; where or to whom did the water meter reading for the C-4 unit go to for almost a five (5) year period? Is the city completely immune from that obligation or responsibility? If you do not sign a contractual agreement, are you then legally responsible for its contents?

Someone might state, "Well, you did sign the contract with the Housing Authority". I ask all of you, conjunctively, and individually – have you ever experienced an incident whereupon a person places a contract in front of you and asks you to sign it? Or, as almost no one does, do you take it in hand, thoroughly examine it, ask pertinent questions, and after a thorough review, then decide whether or not you will affix your signature? Since you signed on the dotted line for the purchase of your home, car, furniture and assorted household items, can you honestly recite when it was you signed each one? What the length of the contract is? What your interest rate is? Almost certainly, you can not.

What I also stated was that if the city insisted in reneging from the solution offered by the city manager prior to the March 2nd Resolution, I would contemplate speaking with an attorney to see if the "coin toss" was justified in our favor. Do we obediently pay an unacceptable assessment, or do we take our chances the legal route, and pray for attorney's fees?

We really do not look forward to 'washing our laundry" in a public forum. We also do not wish to inquire as to the ramifications that brought about the request for Resolution No. 10-17 by Councilman Mr. Daniel Romero, and passed unanimously on March 2, 2010.

Since our conversation with Mr. Victor Carrillo, City Manager, occurred **PRIOR** to the passage of Resolution No. 10-17, should we not honor his decision of voiding the alluded to water bill at 1120 Rosas, Condo # C-4?

We anxiously await your sensible response and resolution to this rather unique dilemma.

Very cordially,

Aeriberto Asquer Olibañez
Heriberto Esquer Albañez

Cell: 760-427-1083

Cc: Mr. Victor Carrillo, City Manager

Pre	mise	3: 1120	Rosas Stre	et #C4	L_Calex	ci co		Date: 5/18/0	5
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Reviewed by ML Date 5/3/1/15

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CITY OF CALEXICO

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